

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

**UNITED STATES OF AMERICA,**

*Plaintiff,*

**v.**

**CHRISTIAN LOPEZ,**

*Defendants.*

**Case No. 23-CR-044-JFH-02**

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**UNITED STATES' RESPONSE TO CHRISTIAN LOPEZ'S MOTION FOR  
DOWNWARD DEPARTURE, MOTION FOR VARIANCE, AND SENTENCING  
MEMORANDUM**

COMES NOW the plaintiff, the United States of America, by and through Christopher J. Wilson, United States Attorney, and Erin A. Cornell, Assistant United States Attorney, and responds to defendant Christian Lopez's Motion for Downward Departure, Motion for Variance, and Sentencing Memorandum. For the reasons set forth below, the government does not object to the defendant's requests for a downward departure or variance.

**I. Background**

Between October 2021 and October 2022, the defendant, members of his family, and a family associate purchased 107 firearms from four licensed firearms retailers in the Tahlequah and Muskogee areas. For each purchase, the defendants executed a Department of Justice ATF Form 4473, Firearms Transaction Record to the effect that they were the actual buyer of the firearm indicated on the Form 4473. In an indictment filed on March 8, 2023, the government alleged that as to each firearm transaction the defendants knew that they were not the actual buyer of the firearm. Defendant Christian Lopez was alleged to have personally purchased nine firearms.

On July 19, 2023, the defendant pleaded guilty to Count Two of the indictment, without a plea agreement. The government will dismiss Counts Three, Five, and Twelve at the time of

sentencing.

The Presentence Investigation Report (PSR) calculates the defendant's advisory guidelines range as 12 to 18 months, based on a Total Offense Level of 13 and Criminal History Category I. This range is in Zone C of the Sentencing Table. The defendant asks the Court to vary downward and sentence him to probation.

For the reasons set forth below, the government agrees with the Probation Office's calculation of the defendant's advisory guidelines range. Nevertheless, the government does not object to the defendant's request for a downward departure or variance.

## **II. Argument**

The defendant is asking the Court to depart and/or vary downward and sentence him to probation. The government does not object to the defendant's request for a downward variance, as such a request here is supported by the Section 3553(a) factors.

The defendant has no prior arrests or convictions. The defendant has been steadily employed for his entire adult life and is the only source of financial support for his fiancé and two young children. While the government in no way is trying to downplay the seriousness of the defendant's crime – unlawfully purchasing firearms – the defendant has been and will continue to be deterred from committing future crimes, as reflected by his lack of criminal history and, going forward, his felony status due to the instant conviction. Departing or varying downward from the guidelines here will still provide a sentence that is sufficient but not greater than necessary to comply with the purposes set forth in Section 3553(a).

Furthermore, as demonstrated in the PSR, upon his arrest in this case the defendant immediately notified law enforcement of the firearms he had in his residence and admitted that he had purchased firearms for Eduardo Garcia. Although defendants obtained one continuance of

trial, this was due to the size of the discovery production and was not because of the defendants' hesitancy to plead guilty.

### **III. Conclusion**

For the reasons set forth herein, the government does not object to the defendant's request for a downward departure or variance.

Respectfully submitted,

CHRISTOPHER J. WILSON  
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 3, 2024, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

Shena Burgess, Attorney for Defendant Christian Lopez

s/ Erin A. Cornell  
ERIN A. CORNELL  
Office of United States Attorney